



SCOTTSDALE PLANNING COMMISSION
STUDY SESSION AGENDA
CITY HALL KIVA
3939 N DRINKWATER BLVD
SCOTTSDALE, ARIZONA
MARCH 25, 2003
4:00 PM

1. CALL TO ORDER
2. ADMINISTRATIVE REPORT – RANDY GRANT
3. REVIEW OF MARCH 25, 2003 AGENDA
4. REVIEW OF APRIL 8, 2003 TENTATIVE AGENDA
5. ADJOURNMENT



DRAFT
SUBJECT TO CHANGE
TENTATIVE AGENDA
SCOTTSDALE PLANNING COMMISSION
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
APRIL 8, 2003
5:00 P.M.

1-ZN-2003

(Fairmont Scottsdale Princess Expansion) request by Wolff Di Napoli LLC, applicant, Arizona State Land Department, owner, to rezone 34+/- acres from Planned Community District (PCD) with Commercial Office (CO) comparable uses to a Planned Community District (PCD) with Central Business (C-2) comparable uses, with amended standards and amend the development plan for the Princess Resort, for property located near the southeast corner of Scottsdale Road and Princess Drive. Staff contact person is Tim Curtis, 480-312-4210.

Applicant contact person is Stewart Cushman, 310-966-2372.

Comments: This request will expand the existing resort.

2-UP-2003

(C.A.P. Basin Park) request by City of Scottsdale, applicant/owner, for municipal use master site plan for a City park on 80+/- acres located at the northeast corner of Hayden and Bell Roads with Townhouse Residential, Planned Community Development (R-4 PCD) zoning. Staff contact person is Al Ward, 480-312-7067.

Applicant contact person is Gary Meyers, 480-312-2357.

Comments: To create a city recreational facility including lighted sports fields and passive recreational areas.

A COPY OF A FULL AGENDA, INCLUDING ITEMS CONTINUED FROM PREVIOUS MEETINGS IS AVAILABLE AT LEAST 24 HOURS PRIOR TO THE MEETING AT THE FOLLOWING LOCATIONS:

Police Department, 9065 East Via Linda
City Hall, 3939 N. Drinkwater Boulevard
El Dorado Park & Recreation Center, 2311 N. Miller Road

ALL INTERESTED PARTIES ARE INVITED TO ATTEND.

For additional information click on the link to 'Projects in the Public Hearing Process' at:
<http://www.ScottsdaleAZ.gov/projects>.



Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the City Clerk's Office at 480-312-2412. Requests should be made as early as possible to allow time to arrange accommodation.



AGENDA
SCOTTSDALE PLANNING COMMISSION
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
MARCH 25, 2003
5:00 P.M.

ROLL CALL

ELECTION OF VICE CHAIRMAN

MINUTES REVIEW AND APPROVAL

1. February 11, 2003
2. February 26, 2003

CONTINUANCES

3. 16-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for an automated carwash on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to a date to be determined.**
4. 17-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for a service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to a date to be determined.**

INITIATION

5. 2-UP-2003 (C.A.P. Basin Park) request to initiate a Municipal Use Master Site Plan for a City Park on 80+/- acres located at the northeast corner of Hayden and Bell Roads with Townhouse Residential, Planned Community Development (R-4 PCD) zoning. Staff Contact person is Al Ward, 480-312-7067.

SCOTTSDALE PLANNING COMMISSION
MARCH 25, 2003
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EXPEDITED AGENDA

6. 1-AB-2003 (Modifying 110th Place) request by Zahnow Homes, applicant, Larry Clark, owner, to abandon a cul-de-sac right-of-way and replace with a new cul-de-sac right-of-way located south of Cave Creek Road and East of 110th Street. Staff contact person is Cheryl Sumners, 480-312-7834. **Applicant contact person is Les Zahnow, 480-575-8018.**

Comments: This request is to shift an existing cul-de-sac slightly to the west that was dedicated in 2000 to serve three properties.

NON-ACTION ITEM

7. 47-PA-2003 (Downtown Ordinance) discussion on the text amendment to create a Downtown Overlay. **Applicant/Staff contact person is Jerry Stabley, 480-312-7872.**

WRITTEN COMMUNICATION

ADJOURNMENT

David Gulino, Chairman
Tony Nelssen
James Heitel

Steve Steinberg
Kevin Osterman
Kay Henry

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**DRAFT MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
FEBRUARY 11, 2003**

PRESENT: David Gulino, Chairman
Charles Lotzar, Vice Chairman
James Heitel, Commissioner
Kay Henry, Commissioner
Tony Nelssen, Commissioner
Kevin Osterman, Commissioner
Steve Steinberg, Commissioner

STAFF: Pat Boomsma
Tim Curtis
Teresa Huish
Jerry Stabley
Bill Verschuren
Kira Wauwie
Randy Grant

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:05 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

CHAIRMAN GULINO stated they would be changing the agenda order. He further stated he is declaring a conflict on cases 16-UP-1997#2, 17-UP-1997#2 and 25-ZN-2002. He reported first the Commission would approve the continuances, then they would hear case 25-ZN-2002, and they go back to the agenda as posted.

MINUTES APPROVAL

1. December 11, 2002
2. December 18, 2002
3. January 22, 2003

VICE CHAIRMAN LOTZAR MADE A MOTION TO APPROVE THE DECEMBER 11, 2002, DECEMBER 18, 2002 AND JANUARY 22, 2003 MINUTES AS PRESENTED. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

OPENING STATEMENT

COMMISSIONER OSTERMAN read the opening statement which describes the role of the Planning Commission and the procedures used in conducting this meeting.

CONTINUANCES

16-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for an automated carwash on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to March 25, 2003.**

(CHAIRMAN GULINO DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE VOTE.)

17-UP-1997#2 (Danny's Car Wash - Shea) request by Deutsch Associates, applicant, Pinnacle & Pima LLC, owner, to amend an existing use permit for a service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning. **Continued to March 25, 2003.**

(CHAIRMAN GULINO DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE VOTE.)

11-AB-2002 (Pueblo PoQuito Abandonment) request by Earl Curley & Lagarde PC, applicant, Multiple owners, for an abandonment of a 10 feet wide public right-of-way located along the north side of Mountain View Road and a 18 feet wide General Land Office patent roadway located along the west side of 123rd Street. **Continued to February 26, 2003.**

VICE CHAIRMAN LOTZAR MOVED TO CONTINUE CASE 11-AB-2002 TO THE FEBRUARY 26, 2003 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

COMMISSIONER HEITEL MOVED TO CONTINUE CASES 16-UP-1997#2 AND 17-UP-1997#2 TO THE MARCH 25, 2003 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER STEINBERG.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) WITH CHAIRMAN GULINO ABSTAINING.

REGULAR AGENDA

25-ZN-2002 (Foothills Overlay) request by City of Scottsdale, applicant, to apply Foothills Overlay (FO) zoning for 10+/- square miles known as the Desert Foothills area, generally located between 56th and 96th Streets, from Happy Valley to Ashler Hills Roads.

(CHAIRMAN GULINO DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE DISCUSSION OR THE VOTE.)

MS. HUI SH presented an overview of the Tonto Foothills Strategic Plan. She reviewed the programs included in the Strategic Plan.

MR. STABLEY presented this case as per the project coordination packet. Staff recommends approval of the request.

COMMISSIONER NELSEN requested clarification on perimeter wall. Mr. Stabley stated it does not apply to front yards it only applies to the rear and back. He further stated that needs to be clarified.

COMMISSIONER NELSEN stated he had a question regarding allowing corral fencing on the perimeter of your property and the impact it would have on the NAOS. The perception is that people would let their large animals loose and allow them to graze in the NAOS. He further stated the intent of the corral fencing is for the safety of the animals. He inquired if there was any provision in the ordinance to deal with this issue. Mr. Stabley stated he would have to look at the ordinance to see what there is to speak to that issue. Commissioner Nelsen stated a sentence could be included that corral fencing is for the safety of the animals and animals should not be kept in areas that are natural area open space.

COMMISSIONER OSTERMAN inquired if the current property owners will be grandfather under the overlay they built under and currently live under. Mr. Stabley replied the existing buildings and existing development would be grandfathered. If they currently have a building permit for something they would be allowed to use the building permit and build under the existing ordinance. Once the new ordinance takes place any additions would have to follow the new ordinance. Commissioner Osterman inquired if they have done a survey of the existing building permits and construction currently underway in that area. Mr. Stabley replied in the affirmative.

COMMISSIONER HENRY stated if a property owner has a piece of property and they have almost built it out and they want to add something, under the current ordinance they would have had room. The new ordinance goes into effect and they want to add a shed and now they can't. If they wanted to add it they would probably have to take buildings down to meet the requirements. Mr. Stabley replied that is true, but in most circumstances under the existing ordinance it would be a challenge to build out to the maximum that the ordinance would allow. He further stated he would suspect that a vast majority of the people never gets close to using the amount of land potential under the current ordinance.

Commissioner Henry stated for example, if the owners decided they wanted a different wall and they tore down the existing 12-foot perimeter wall under the new ordinance they would have to replace it with a shorter wall. Mr. Stabley replied in the affirmative. He noted the wall situation is not one they had thought of but the wall would have to comply with the standards of the new ordinance. Commissioner Nelssen inquired if there were any walls taller than 8 feet in this area. Mr. Stabley replied most are less than six feet.

COMMISSIONER NELSEN requested staff address the letter from Jackie Jones. He stated Ms. Jones is in opposition to this request. One of her concerns is that you can't build two-story buildings in this area. He inquired if there is any reason why you can't build a two-story building at 24 feet. Mr. Stabley replied the people staff have spoken to felt that 24 feet can work for a two-story building but won't give them as much flexibility if they had 26 to 30 feet. Commissioner Nelssen stated Ms. Jones also has concerns about the individuality of the neighborhood. He inquired if this overlay would adversely effect the individuality of the neighborhoods. Mr. Stabley replied this ordinance should not adversely impact the individuality of the neighborhood.

Commissioner Nelssen inquired if this ordinance would change the placement of accessory buildings in the front yard not to be confused with the required front yard setback. Mr. Stabley stated he would discuss that issue with legal counsel during public testimony and get back to them.

COMMISSIONER STEINBERG inquired if current applicants designed around the current ordinance would they be given enough time to get a permit based on the current application. Mr. Stabley replied there would be a 30-day lag time from when the plan was approved and when it would take effect.

(VICE CHAIRMAN LOTZAR OPENED PUBLIC TESTIMONY.)

JANE RAU, 8148 E. Cortland, spoke in favor of this request. She requested the Foothills Overlay be implemented because it is something she has been working on for 18 years. She reported there have been thousands of hours put into this overlay. She further reported the majority of the people in this area are in favor of this overlay and want it to move forward.

LYNNE LAGARDE, 3101 N. Central Suite 100, Phoenix, AZ, stated she represents several property owners in the area who are at various stages of construction. She further stated she thought that everyone would agree this is a worthwhile effort and it is time to implement the Foothills Overlay but there are some practical problems with the overlay. There is no grandfathering provision in the ordinance language. She requested that they immediately initiate a grandfathering provision. She noted there was a mailer that went out that stated it is important to note the overlay will not impact existing buildings and development. She further noted she has a client that is currently building under the existing rules in this area and he is planning an accessory building. The plans have been drawn under the existing ordinance and now he might not be able to pull the permit. She commented the issue of grandfathering is a serious problem and needs to be addressed before this overlay is adopted.

Ms. Legarde stated one of the biggest issues with this process is that the ordinance language was adopted and the overlay was not applied at the same time. There are a lot of people who do not know what the Foothills Overlay Ordinance says and it is being applied to their property. She requested they consider a grandfathering provision.

COMMISSIONER NELSEN inquired if Ms Legarde was at liberty to disclose who her client is. Ms. Legarde stated she would prefer not to because she has not checked with her client on disclosure. Commissioner Nelsen inquired if Ms. Legarde could say whether it was a relatively large piece of property. Ms. Legarde replied this is not the Constantine property if that is what you are thinking about.

WAYNE ANDERSON, 7670 E. Jomax Road, representing Redeemer Lutheran Church, stated they believe the Foothills Overlay is a good idea and overall is a benefit to the neighbors. He further stated they are concerned because they don't know what the grandfather clause is. He remarked they would urge the Commission to make sure that there is a clear grandfathering clause included in the ordinance.

ROSLYN ABRAMOWITZ, 21645 N. 53rd Drive, spoke in opposition to this request. She stated she owns a lot in a subdivision in this area and there are only three lots that are not developed. The development has been there for 30 years. She requested that the three lots be grandfathered in on the old ordinance so when these homes are built they would be like the other homes.

MR. GRANT stated for clarification properties that would be grandfathered in would enjoy the same property rights from existing development that is default in the zoning ordinance. If they wanted to change the grandfathering status to include any other type of provision that would relate to future development or development under construction or some time limitation on when development continue to occur under the old provision then they would make a change to the provision. The way it is going into affect is consistent wit the text Zoning ordinance.

COMMISSIONER STEINBERG stated they always have the option for a variance.

VICE CHAIRMAN LOTZAR stated what Ms. Abramowitz is saying is that she has an undeveloped piece of property in a subdivision. He further stated he does not want to mislead her given Mr. Grant's explanation because it would seem her fears on some level are justified in that her undeveloped parcel would be subject to this new ordinance. Mr. Grant stated in the situation where it has been subdivided there is the potential that there are amended development standards and those amended development standards would vest the right to develop within that subdivision. If it was a piece of property that was simply vacant and didn't have a building on it and didn't have amended development standards then it would be required to come under the new ordinance. Vice Chairman Lotzar stated you can't take any comfort with the grandfathering they would need to look at their underlying case to see if there are amended development standards that would trump the new ordinance.

JIM TOGERSON, representing Desert Foothills Lutheran Church, President Lutheran Foothills Church, stated they have 17 acres and Pastor Schmitt is here to express their concerns about the overlay.

MIKE SCHMITT, 29305 N. Scottsdale Road, reported in the future they hope to be able to build a school. The height restriction probably will be a problem for the gymnasium. He further reported with the restrictions they have concerns about their ability to grow and continue to help the community in this area.

Mr. Torgeson stated they are a non-profit organization that provides numerous services on a gratis basis. They also provide a lot of donations and services to people in less fortunate parts of the city. He further stated if they had to provide another 25-foot setback for every additional foot it would be very onerous.

(VICE CHAIRMAN LOTZAR CLOSED PUBLIC TESTIMONY.)

COMMISSIONER STEINBERG inquired where the height is measured from. Mr. Grant replied it is measured from natural grade.

COMMISSIONER HEITEL stated just to be clear this overlay is not breaking any new ground in regards to the comment made earlier with regards to the consistency with non-conforming uses. This is generally the standard procedure for dealing with a new ordinance and overlay. Mr. Grant stated this would be implemented with the same grandfathering provisions that other overlay ordinances have been enacted.

Commissioner Heitel stated typically most subdivisions have amended development standards in them that would usurp the overlay so they can rest assure those are being cared for in this process. Ms. Boomsma stated it depends on what the development standards are. It would depend whether a development agreement is applicable to the property. If there is a development agreement applicable to the property and it addresses the specific issue at hand then the other provision would be grandfathered in. In an absence of a specific provision then the new provisions would control.

Commissioner Heitel stated there appears to be the presumption that no relief is provided in this overlay and clearly there is a full page of relief under paragraph F for special exemptions that provide relief through the DR Board and the City Council. Mr. Grant reported there are provisions for the DR Board to be able to provide relief up to 25 feet of the standard and City Council over 25 feet of the standard.

MR. STABLEY stated he would like to address the question that came up in regards to the accessory buildings occurring in a front yard. He further stated there is a required front yard by ordinance that is basically the front building setback and no buildings can occur in that area. If the main building setback is behind that line and there is space for an accessory building it could be located then there is the possibility of putting the accessory building in the front of the main building. The Foothills Overlay does address that issue and requires a greater setback.

COMMISSIONER NELSEN stated he has a questions in response to an e-mail he received. He requested staff read the definition of a front yard in the zoning ordinance. Mr. Grant stated the definition of the front yard does say between the face of a building and the street but there is a section relating to accessory buildings that states they may not be constructed within the required front yard. Commissioner Nelsen inquired if that was the definition? The definition of a front yard says: A space unoccupied unless

otherwise provided for. He stated so accessory buildings are not allowed in the required front yard. Mr. Grant replied in the affirmative.

Commissioner Nelssen stated with regard to older subdivisions that have undeveloped lots there have been restrictions put on those properties in the last 30 years. Mr. Grant replied that is correct. If a subdivision comes in with amended development standards they would be hesitant to apply those standards differently from the properties already built.

COMMISSIONER HENRY stated there have been some concerns expressed about not having a grandfathering clause in the ordinance. Mr. Grant stated there are concerns that there is not something other than the zoning ordinance that defines the grandfathering. At the time the ordinance is applied, you would have to conform to the requirements of the ordinance.

Commissioner Henry inquired if all of the people that live in this area have been communicated with and understand the impact of this ordinance on their properties. Mr. Grant replied he felt very comfortable that they have all been contacted. Commissioner Henry requested that between now and the City Council meeting that they put an article in the newspaper so everyone in this area will be aware of what is happening and the impacts.

VICE CHAIRMAN LOTZAR stated he started to write down the various questions a property owner should ask himself or herself:

Am I subject to amended development standards? If the answer is no then, the new ordinance would apply. If the answer is yes, your analysis is not done. They would still have to determine whether or not those amended development standards cover the issues that we are talking about in this new ordinance. If they are silent on those issues there is some questions whether or not they would apply. If they specifically cover the issues as an example building heights, then the amended development standards might apply to me. It seems like with yet another layer of requirements here we are really setting up very difficult issues for folks to try police and apply the appropriate ordinance.

Vice Chairman Lotzar inquired if his analysis on what a property owner might need to do is accurate. Mr. Grant stated he felt it was accurate. He stated there is one alternative they might want to consider and that would be to craft language that would eliminate the question of amended development standards.

COMMISSIONER NELSEN stated it is his opinion that it should be applied to any new development that was the purpose of the overlay. He further stated he felt this document is well thought out and covers many of the issues but not all of the issues and those can be addressed through the variance process. There is also relief provided through the DR Board and City Council.

Commissioner Nelssen stated with regard to Commissioner Henry's concerns there have been numerous articles in the newspaper over the years and many public meetings.

Commissioner Nelssen remarked he felt this needs to be moved forward because it is meant to preserve and enhance the existing rural equestrian character of the area. He further remarked a lot has changed over the last 17 years and not all for the best.

COMMISSIONER NELSEN MOVED TO FORWARD CASE 25-ZN-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HEITEL.

COMMISSIONER HEITEL stated he believed this process has gone on for a tremendous amount of time and he felt the public has been made aware of this process. There has been years of public involvement and it would be very difficult for somebody to say they were not aware. He reported most importantly the ordinance is an outgrowth of what the City has asked us as citizens to do in defining character areas for the city, and is not to broad brush the city with one particular stroke, but to take a particular area so unique in character and create a character definition for that area. This ordinance and this overlay does that it provides non-conforming uses that are consistent with multiple applications in the city for other non-conforming uses and provides clear outlets for hardship cases both through the DRB and City Council. He concluded he enthusiastically supports this request.

COMMISSIONER OSTERMAN stated he would strongly recommend that before this goes before the City Council for a vote the Planning Office take some time to craft some specific grandfathering language that provides full spectrum protection for property owners that have structures and walls so there won't be any surprises after the overlay is adopted.

COMMISSIONER STEINBERG stated that was his concern. He inquired if there was anyway to approve this with a stipulation that calls for drafting of grandfathering language that would address most of the concerns they have heard tonight. Vice Chairman Lotzar stated they could but there is a motion and a second pending.

COMMISSIONER HENRY stated everything she has read in this ordinance is good and the intent is to preserve the rural equestrian areas. She further stated she is in 100 percent support of the overlay. She added she is concerned that people understand the grandfathering clause. She concluded she will be recommending this to the City Council for approval.

VICE CHAIRMAN LOTZAR stated he would prefer they craft some additional language on the grandfathering issue on the lines of what was suggested by Mr. Grant. He further stated Commissioner's Osterman suggestion regarding crafting language on grandfathering to be included in the Council's packet would be in everyone's best interest.

COMMISSIONER NELSEN stated he is hearing that at least three commissioners have concerns over the grandfathering clause is that because they don't understand what Mr. Grant said or don't agree with what Mr. Grant said. Vice Chairman Lotzar replied he understands but felt he articulated the decision tree of what someone would have to go through and he felt that level of analysis was beyond what should be reasonably expected. Commissioner Nelssen stated he would respectfully disagree

because this is no more complicated than ESLO. He further stated he wanted to make it real clear the grandfathering provisions are only for existing structures unless there are amended development standards in the subdivision. Ms. Boomsma stated generally speaking she would agree. Unless there is a case where something has not been specifically addressed.

Commissioner Nelssen stated he is very comfortable with this document as it is written and these issues have been gone over hundreds of times. He further stated he would stick with his original motion.

VICE CHAIRMAN LOTZAR stated he would be voting against this request on the simple issue of grandfathering otherwise he felt it was a fine idea.

COMMISSIONER OSTERMAN stated he would concur with Vice Chairman Lotzar's last statement.

THE MOTION PASSED BY A VOTE OF FOUR (4) TO TWO (2) WITH VICE CHAIRMAN LOTZAR AND COMMISSIONER OSTERMAN DISSENTING. CHAIRMAN GULINO ABSTAINED.

(VICE CHAIRMAN LOTZAR LEFT AT 6:30 PM)

INITIATION

4. **47-PA-2003 (Downtown Overlay and Related Issue Text Amendment)**
request by City of Scottsdale, applicant, to initiate a text amendment to create a Downtown Overlay and to address issues related to live entertainment and drive through establishments.

MR. STABLEY stated this is a request by the City of Scottsdale to initiate a text amendment to create a Downtown Overlay and to address issues related to live entertainment and drive through establishments.

CHAIRMAN GULINO inquired if a use permit would be required for a drive through in C-2 zoning. Mr. Stabley stated C-2 zoning does not allow drive throughs at all not even with a use permit. The intent is to keep drive throughs out of the downtown.

COMMISSIONER HEITEL stated their charge is just to approve the initiation of this process. He requested information on the citizen involvement that would occur in crafting this text amendment. Mr. Stabley stated they anticipate spending the entire month of March working with citizens and property owners in Downtown Scottsdale in seeking their input.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

NORWOOD SISSON, 7431 N. Cortland, stated most of downtown is zoned C-2. The reason it is still zoned C-2 is because the city doesn't want to process zoning applications without a site plan. He further stated he felt it would be wise to initiate a

rezoning process without a site plan. He remarked the zoning should conform to the General Plan and should not be tied to a site plan.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. GRANT provided clarification on the rezoning process in the downtown.

CHAIRMAN GULINO inquired about the schedule for this process. Mr. Stabley replied they are anticipating coming back to the Planning Commission in April and go to the City Council in May. Chairman Gulino requested staff provide the Commission with an update at a future study session.

COMMISSIONER HENRY MOVED TO INITIATE 47-PA-2003 A TEXT AMENDMENT TO CREATE A DOWNTOWN OVERLAY AND TO ADDRESS ISSUES RELATED TO LIVE ENTERTAINMENT AND DRIVE THROUGH ESTABLISHMENTS. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0),

EXPEDITED AGENDA

8. 28-UP-2002 (Alltel Communications At Troon North) request by Campbell A & Z LLC, applicant, Desert Crown III Homeowners Association, owner, for a conditional use permit for a Personal wireless service facility in a small portion of Tract A within the Desert Crown III subdivision which is located at the northeast corner of Dynamite Blvd and N 114th Street with Single Family Residential, Environmentally Sensitive District (R1-18, ESL) zoning.

MR. VERSCHUREN presented this case as per the project coordination packet. He stated staff does have a sample of the cactus. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER NELSEN requested to see the cactus sample. He inquired if there was a standard for faux cactus. Mr. Verschuren stated that is a good question. This is the second application the city has received. Commissioner Nelsen stated in Fountain Hills at Eagle Mountain and Shea there are two of these cacti. He inquired if this is the same material that was used there. Mr. Verschuren replied he did not know.

Commissioner Nelsen stated if the wireless ordinance is passed and because this is in the ESL area would it would have to go before the DRB. Mr. Verschuren replied in the affirmative.

Commissioner Nelsen inquired if somewhere down the road there is a change made to this site would those changes affect the application. Mr. Verschuren stated tonight's approval is for the use permit. Once it is approved and goes through the DR process if the facility is changed and does not match the DR application then it is out of conformance they would send in zoning enforcement to cite them for not being in conformance with the approved DR.

COMMISSIONER STEINBERG inquired about the future of the two vacant lots behind this facility. Mr. Verschuren stated nothing would be built on tract A. On the larger lot there will be a single residential dwelling built on that lot. Commissioner Steinberg inquired about the proximity of the stealth cactus to the nearest home. Mr. Verschuren pointed on the graphic where the nearest home was located. Commissioner Steinberg inquired between now and enacting the wireless ordinance, they heard two weeks ago, if the stipulated distance between the nearest residence and wireless facility as outlined in the new wireless ordinance could slip through. Mr. Verschuren replied he did not think so.

COMMISSIONER HENRY inquired why this has taken so long to come before the Planning Commission. Mr. Verschuren replied because they have been working with the property owners to address their concerns and it has taken longer than expected. Commissioner Henry noted the conditional use permit is only for five years so they would have to come back before the Planning Commission for review.

COMMISSIONER NELSEN stated following up on Commissioner Steinberg's concerns, this site would be grandfathered because the new ordinance has not gone into affect. He further stated with regard to Commissioner Henry's remark regarding the amount of time span that is one of the changes in the ordinance that stealth applications would be expedited.

Commissioner Nelsen inquired why there was a faux rock on the top to the vault. Mr. Verschuren replied the faux rock is to hide the top of the vault otherwise it would just be a metal plate.

Commissioner Nelsen inquired if there would be any additional landscaping. Mr. Verschuren outlined the where the existing landscaping was and where additional landscaping would be added. Commissioner Nelsen inquired if Mr. Verschuren felt this was the best location for the faux cactus. Mr. Verschuren stated they determined this was the best spot in terms of using the existing vegetation.

CHAIRMAN GULINO noted in the stipulations there are about five items directing the DR Board's attend to the landscape plan and the rock and cactus itself. He further noted he would like to leave that up to the DR Board.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 28-UP-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY VOTE OF FIVE (5) TO ONE (1) WITH COMMISSIONER STEINBERG DISSENTING.

9. 29-UP-2002 (Edufit) request by Titus, Brueckner & Berry, PC, applicant, Lamb 4PS LLC, owner, for a conditional use permit for a health studio within one suite of the existing shopping center located at the northeast corner of Scottsdale Road and

Pinnacle Peak Road (23425 N Scottsdale Road) with Central Business District (C-2) zoning.

MR. VERSCHUREN presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER HENRY stated the applicant has received two parking credits for providing two shower stalls. She further stated when you look at the layout of the building it only shows one shower stall. Mr. Verschuren stated under the ordinance each shower stall allows credit for two parking spaces.

COMMISSIONER STEINBERG inquired if the proposed addition to Safeway would cause any further hardship with regard to parking. Mr. Verschuren stated he is not aware of any application that proposes an addition to Safeway. If there were an addition in the shopping center, the master-parking plan would need to be updated.

COMMISSIONER NELSEN inquired about the status of the Safeway expansion. He remarked the DR Board a long time ago approved it. Mr. Verschuren stated he was not aware of the expansion. He further stated if it was done in the past the approval is only good for one year. If they did not pull the building permit within a year, it would have to come back for approval. Commissioner Nelsen inquired if it could be done administratively. Mr. Verschuren replied it could be done administratively but knowing the amount of time that has gone by they would ask for an updated parking study. Commissioner Nelsen inquired if staff was saying that there is not a conflict between the proposed Safeway expansion and the use of this property. Mr. Verschuren stated when it comes in from re-approval staff would then evaluate whether it meets all of the parking requirements.

COMMISSIONER OSTERMAN MOVED TO FORWARD CASE 29-UP-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

10. 29-ZN-2000#2 (Whisper Rock) request by Tornow Design Associates, applicant, C.T.A.J. Investments, LLC, owner, to rezone from Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL), Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL), Single Family Residential, Environmentally Sensitive Lands (R1-130 ESL) to Resort/Townhouse Residential, Environmentally Sensitive Lands, Planned Community District (R-4R, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-43, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-130, ESL, PCD) and to amend development standards of the Resort/Townhouse Residential (R-4R) district and to revise the approved Development Agreement on a 400 +/- acre parcel located near Hayden Road and Ashler Hills Road (extended).

11. 4-UP-1999#3 (Whisper Rock) request by Tornow Design Associates, applicant, C.T.A.J. Investments, LLC, owner, for a 20-acre expansion to an approved conditional use permit for a golf course on a 400+/- acre parcel located near Hayden Road and Ashler Hills Road (extended).

MS. WAUWIE presented cases 29-ZN-2000#2 and 4-UP-1998#3 as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

BILL LARSON, 7377 E. Doubletree Ranch Road, stated he appreciated Mr. Grant's comments during study session that this project is not as nearly involved as it looks. They primarily view it as a housekeeping issue. He reviewed the prior approval for the golf cottages. He remarked they are looking to provide flexibility in planning for improved golf club design and member cottage placement. He further remarked it is important to mention that this is a national golf course and it is a private course.

Mr. Larson stated the second request is to add 20 acres of the property to the existing golf course. If they did add this land, they would be entitled to 13 residential units with the existing zoning. He concluded they concur with the stipulations and staff recommendation.

COMMISSIONER HEITEL stated the concept of spreading the cottages seems like a great idea. He asked a series of questions regarding the expansion area to the north and locating the cottages into the hillside. Mr. Larson provided information on the three areas they have identified to potentially locate the cottages on the upper tier. Commissioner Heitel inquired without any limitations in the expansion they could conceivably put all 50 cottages in that area. Mr. Larson stated one of the components that precipitated the introduction of the PC overlay was because the City Attorney felt the explicit language inherent to the PC ordinance will offer greater clarification to city staff as they evaluate each of their proposals. If they were to cluster all of those units up here, it would be inconsistent with the concept graphic they have presented as part of the case. This suggests they would be distributing the cottages over the entire property. If they were all to be clustered in that area he thought staff would have a problem with approval as would DR. Commissioner Heitel inquired if that would be enforceable. Ms. Boomsma stated DR would have the ultimate authority on siting and approving the siting or various locations. Under the text of the PC ordinance, they probably could cluster them. The main change between the old zoning and the proposed zoning is to effectuate dispersal. If they were to cluster everything in the mountainside it would be contrary to their development plan and there would be major conversations about it, which ultimately the DRB could broker. It would not come back before the Planning Commission. Mr. Larson stated their objective is to enlarge the area of distribution and introduce space between the various cottages. He further stated he hopes that it is clear that their intent is for further distribution rather than tight clustering.

COMMISSIONER HEITEL requested clarification on the development agreement. Mr. Larson stated the reason for the development agreement so that this would not have the potential to become a hotel.

COMMISSIONER NELSEN inquired what has happened to the concept of conservation planning and clustering your development to maintain open space. He also inquired how it is a benefit to the overall community and the environment if they spread this development over a larger area.

BRIAN BEAR, Vice President Development, Grayhawk, stated Mr. Larson is at a little bit of a disadvantage because for the last couple of weeks his office has been working on the current plans. He reviewed the current plans noting 70 to 80 percent of the cottages would be clustered within the original area, but he does not know who they could stipulate to that. He further noted he felt they would still comply with the notion of clustering and preserving open space but they need the flexibility to sprinkle a few outside of that area. Commissioner Nelsen inquired if they would be willing to stipulate that 70 to 80 percent would be within the original area.

COMMISSIONER NELSEN expressed his concerns regarding the houses that would be located next to the wash and the potential for conflict with the equestrian users. He stated he could envision complaints from the residents regarding flies. Mr. Larson provided an overview of where the trails would be dedicated. He noted it is heavily treed and there it is an abundant open space so that would lessen the potential for conflicts. Mr. Bear stated they have disclosed to the buyers that there is a public equestrian trail so they feel confident they will be aware of the equestrian trail.

Commissioner Nelsen asked again if they would be willing to stipulate to having 70 to 80 percent in the original area. Mr. Bear stated that perhaps that was a poor choice of words on his part because the original boundary is somewhat arbitrary and does not pay attention to the topographic features. It is clearly their intent to place the majority of the cottages in that area. He further stated a stipulation would be administratively difficult.

Commissioner Nelsen stated he would like to reiterate Commissioner Heitel's concerns regarding if they don't have a certain number of units confined in the original area it opens the door on loading the wash next to the trail and the mountain. He further stated he has a problem with that.

COMMISSIONER STEINBERG requested information regarding the size of the cottage and what amenities would be provided. Mr. Bear provided information on the two types of cottages. Commissioner Steinberg inquired if the cottages would be self-sufficient. Mr. Bear stated the only things being purposed as far as a food and beverage facility would be consistent with the use permit. Commissioner Steinberg inquired how would this be different from a hotel. Mr. Bear stated the golf course is private and not open to public play. The development agreement outlines the uses to prevent it from becoming like a hotel. Commissioner Steinberg inquired if the trail is open to the public. Mr. Bear reported the trail is open to the public for equestrians.

COMMISSIONER OSTERMAN MOVED TO FORWARD CASES 29-ZN-2000#2 AND 4-UP-1999#3 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL WITH THE FOLLOWING CLARIFICATION:

- **THE GENERAL INTENT OF THE SCATTERED COTTAGE CONCEPT AS DEPICTED IN THE GOLF COURSE PLANNING EXHIBIT BE SUBMITTED TO THE DR BOARD TO THE EXTENT MORE CLUSTERING OCCURS IN THE ORIGINAL 70 ACRES THAT IS NOT DEPICTED IN THE EXHIBIT.**

COMMISSIONER OSTERMAN stated he would not like to include that in this motion.

COMMISSIONER HEITEL withdrew his second.

THE MOTION DIED DUE TO LACK OF A SECOND.

COMMISSIONER HEITEL MOVED TO FORWARD CASES 29-ZN-2000#2 AND 4-UP-1999#3 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA WITH THE FOLLOWING STIPULATION:

- **THE GENERAL INTENT OF THE SCATTERED COTTAGE CONCEPT AS DEPICTED IN THE GOLF COURSE PLANNING AREA EXHIBIT BE SUBMITTED TO THE DR BOARD TO THE EXTENT MORE CLUSTERING MAY OCCUR IN THE ORIGINAL 70 ACRES COTTAGE PLANNING AREA.**

THE MOTION DIED DUE TO LACK OF A SECOND.

CHAIRMAN GULINO stated there has been some focus based on the concept of some percentage of the 50 cottages staying in the original 70 acres. He inquired if the applicant would be willing to stipulate to keeping a percentage of the cottages in the original area. Mr. Larson stated they would be willing to accept that 50 percent of the units would be in the original area. He presented the graphic they were prepared to bring to the Commission in November but they were continued by the City Attorney's Office because of the overlay issue. He reviewed the configuration they were requesting for 100 percent of the clusters at that time. If they could use that exhibit and say the 80 percent of units could occur. The reason for the expanded area is that the PC as an overlay requires 160 acres minimum and because of that, they had to show more acreage than they originally introduced. It also addresses one other issue of putting cottages high on that landform because that landform is not included in this.

COMMISSIONER NELSEN stated again they find themselves in the position of negotiating.

COMMISSIONER NELSEN MOVED TO CONTINUE CASES 29-ZN-2000#2 AND 4-UP-1999#3 UNTIL THE NEXT AVAILABLE TIME ON THE AGENDA.

COMMISSIONER NELSEN stated he would like to see more information of where the cottages would be located. He further stated he has a lot of questions and he would like to see information that is more specific.

MR. LARSON stated they are uncomfortable with the continuance because they came three months ago and on the evening of the Planning Commission meeting they were

continued by the City Attorney because of the overlay issue. They see nothing but environmental merit and they have a proven track record. He requested they reconsider the continuance because they have already been continued once.

MS. BOOMSMA stated if the Commission would like to hear the details of why she continued this case last November she would be happy to provide that information. Chairman Gulino stated that would not be necessary.

COMMISSIONER NELSEN WITHDREW HIS MOTION.

COMMISSIONER NELSEN MOVED TO FORWARD CASES 29-ZN-2000#2 AND 4-UP-1999#3 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR DENIAL.

THE MOTION DIED DUE TO LACK OF A SECOND.

COMMISSIONER HENRY inquired when the site plan is done would it come back to the Planning Commission or just go to the DR Board. Mr. Larson replied it goes to the DR Board.

COMMISSIONER HEITEL MOVED TO FORWARD CASES 29-ZN-2000#2 AND 4-UP-1999#3 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA AND WITH THE FOLLOWING STIPULATION:

THE GENERAL INTENT OF THE SCATTERED COTTAGE CONCEPT AS DEPICTED IN THE GOLF COURSE PLANNING AREA EXHIBIT (THAT THEY HAVE IN THEIR PACKET) BE GENERALLY ADHERED TO THE EXTENT THAT MORE CLUSTERING TO A MINIMUM OF 50 PERCENT MUST OCCUR IN THE PREVIOUS DECEMBER 2002 GOLF COURSE PLANNING AREA WITH SPECIAL EMPHASIS AND SENSITIVITY IN LOCATING THOSE GOLF COURSE COTTAGES IN NOT DISTURBING AND ADVERSELY EFFECTING THE EQUESTRIAN TRAIL PASSING THROUGH THE AREA.

SECOND BY COMMISSIONER OSTERMAN.

CHAIRMAN GULINO requested clarification on the label on the drawing they are seeing because it will be incorporated into the packet moving on to the City Council. Mr. Larson stated it is the September 30, 2002 Golf Course Planning Area Exhibit.

COMMISSIONER HEITEL AMENDED HIS MOTION TO REFLECT IT IS THE SEPTEMBER 30, 2002 GOLF COURSE PLANNING AREA EXHIBIT. COMMISSIONER OSTERMAN SECONDED THE AMENDMENT.

COMMISSIONER NELSEN stated the motion indicated 50 percent and Mr. Larson indicated 80 percent would go in this area.

CHAIRMAN GULINO stated this looks like a good plan and these people have a proven track record. It is a nice community. It is a nice addition to our city. He further stated he

felt scattering the cottages through the community is a nice idea. He concluded he supports this request.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ONE (1) WITH COMMISSIONER NELSEN DISSENTING.

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 7:55 p.m.

Respectfully Submitted,

"For the Record " Court Reporters



**DRAFT MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
FEBRUARY 26, 2003**

PRESENT: David Gulino, Chairman
Charles Lotzar, Vice Chairman
James Heitel, Commissioner
Kay Henry, Commissioner
Tony Nelssen, Commissioner
Kevin Osterman, Commissioner
Steve Steinberg, Commissioner

STAFF: Pat Boomsma
Pete Deeley
Randy Grant
Don Meserve
Jerry Stabley
Al Ward
Kira Wauwie

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:05 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

1. January 28, 2003

VICE CHAIRMAN LOTZAR MADE A MOTION TO APPROVE THE JANUARY 28, 2003 MINUTES AS PRESENTED. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

OPENING STATEMENT

COMMISSIONER OSTERMAN read the opening statement which describes the role of the Planning Commission and the procedures used in conducting this meeting.

CHAIRMAN GULINO stated case 11-AB-2002 has been moved from the expedited agenda to the regular agenda. He further stated Mr. Deeley has additional information on that case and will hand it out to the Commission.

EXPEDITED AGENDA

1-UP-2003 (Pure Fitness Use Permit) request by Mittlesteadt & Cooper Associates Ltd, applicant, Shea East LLC, owner for a conditional use permit for a health studio in a 25,000 +/-sq ft tenant space of a building located at 7330 E Shea Blvd, Suites 101 & 102 with Central Business District (C-2) zoning.

MS. WAUWIE presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER HENRY inquired if the fitness center was in that space before. Ms. Wauwie replied in the negative. Commissioner Henry inquired if it is proposed they put the fitness center in that space. Ms. Wauwie replied in the affirmative. Commissioner Henry inquired if they had a special permit to occupy part of this space to do pre-registration and have their equipment there for people to try out. Ms. Wauwie stated they would have needed a conditional use permit for their operations as a health club. Commissioner Henry stated they are doing that now before the Commission has even voted on this. She inquired why are they being allowed to do that. Ms. Wauwie stated that maybe they just moved in prematurely. Commissioner Henry inquired if that was legal.

COMMISSIONER STEINBERG asked what was the prior use in this space.

KAREN BETENCOURT, Mittlesteadt & Cooper Associates Ltd, applicant, stated to answer Commissioner Henry's question they are using an adjacent suite that was provided to them by the landlord as a sales office and is not part of the use permit. She further stated to answer Commissioner Steinberg's question the space has always been vacant.

COMMISSIONER STEINBERG inquired if there would be additional parking needs based on their use compared to the prior use. Ms. Betencourt stated there was a parking study done and the parking needs for the fitness center would be less than what normal commercial would require.

COMMISSIONER OSTERMAN MOVED TO FORWARD CASE 1-UP-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL INDICATING IT DOES MEET ALL OF THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER STEINBERG.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

11-AB-2002 (Pueblo PoQuito Abandonment) request by Earl Curley & Lagarde PC, applicant, Saddle Rock Ranch LLC, owner, to abandon a certain portion of the north 10 feet public right-of-way for Mountain View Road, a 20 feet wide section of 123rd Street public right-of-way including a 46 feet radius cul-de-sac, and a 33 feet General Land Office patent roadway easement along the 123rd Street alignment. 123rd Street will change from a public to a private street.

CHAIRMAN GULINO stated several months ago they had a rash of the GLO easement cases and everyone who has been involved with this knows that there is a difference of opinion regarding legalities and whether they can abandon these. He further stated they are not here to discuss the legalities of this. This issue has been discussed with the City Attorney and City Council and they have gotten their direction. He remarked he would not stifle anyones opportunity to make their opinions known but he wants to remind them that they are here to discuss land use issues. He concluded he would appreciate that any comments regarding legality be kept short and to the point.

MR. GRANT stated staff received a letter from John Aleo who requested his comments be read into the record:

“If it is the city’s choice, I suppose that the city may revoke its’ interest in a patent easement on behalf of public use. To lead the public in thinking that the patent easement goes away or disappears along with the beneficial interest of the affected parties, creates nothing but disclosure problems for everyone concerned now and in the future. For the city to issue building permits to erect permanent structures onto patent easements also creates unnecessary disclosure problems.

There are no provision in the federal law that created these patent easements to abandon them. Therefore, it is the city and surveyors obligation to make sure that the patent easement remain on the plat of survey/site plan, and the public should be made aware of the ramifications of blocking, impeding, and interfering with patent easements. By not showing the patent easements on the plat of surveyor, property owners are not aware of them, and that’s where the problem starts.

The attorneys for the local governing body and the client/property owners should make the affected parties aware of the consequences of blocking, impeding, and interfacing with the patent easements. Not to do so is a vagrancy of their duty to disclose the ramifications to those concerned.

I am sure that you all have seen the memo dated November 1, 2002 addressed to J.D. Hayworth, US Congressman, from Pamela Baldwin, Legislative Counsel American Law Div. If not, I be happy to provide you with one.”

MR. DEELEY stated that earlier he passed out some new exhibits because the exhibits included in the packet don’t match the report. He provided a brief review of where the

exhibits did not match. He presented this case as per the project coordination packet. Staff recommends approval of the abandonment as proposed.

COMMISSIONER HEITEL stated he does not understand if the purpose is to accommodate the Jaske property owner with a problem regarding this easement issue, why are they requesting an abandonment of part of that roadway when we have a trail in there. Why are they not taking that trail easement as a condition of assisting with problems of this easement? He further stated that he has a real concern that we know there is a trail there. They know there is potential uses for that right-of-way and they are here just right on the heels of the discussion about trails and maximizing right-of-way and they are abandoning part of the trail buffer. He remarked he would encourage the commissioners to think about that portion of the request and the adverse impact it will have on perpetuating this trail process and they are providing this Jaske property owner, if they pass this, some relief to a problem that appears they have created itself.

COMMISSIONER NELSEN inquired how the Jaske property was allowed to be developed onto the GLO easement. He also inquired if it was developed in the City of Scottsdale. Mr. Deeley replied the lot is within the City of Scottsdale and there is a 33-foot roadway easement along there. He further stated the developer tried to negotiate the purchasing of the property from him over a period of time and there was a GLO roadway easement and, based on that have been advised he would be entitled to put improvement in there. He provided information on the adjacent property on the east side of 123rd Street that abandoned their GLO easement back in 1999.

Commissioner Nelsen stated this speaks to the letter written by Mr. Aleo on what happens when the city goes down this path abandoning GLO easements. This is just a problem that popped up. He further stated he would concur with Commissioner Heitel that in abandoning this we are eliminating some opportunities for appropriate trail placement in the future. Notwithstanding that as reflected in Mr. Aleo's letter GLO easements don't go away. The City may abandon their interest in it but they still exist. He provided information on a similar well-known case where a GLO easement was blocked and everything that blocked that easement was required to be torn down and removed. These are some of the issues they need to keep in mind. He further remarked first and foremost they need to leave their opportunities open for a trail. Again if 123rd becomes a private street that opens the issue for somebody to consider a private access easement right as patentees to the GLO easements because they might want access to the future trail along the CAP canal. He commented these are issues that need to be addressed before the City considers abandoning this.

LYNNE LAGARDE, 3101 N. Central Suite 100, Phoenix, AZ, stated she represents the applicant. She provided background information on this property. She further stated the purpose of this request is to abandon both the 33 feet GLO patent roadway easement, and the 20 feet and 46 feet radius cul-de-sac public right-of-way along 123rd Street alignment. The public right-of-way and a portion of the 33 feet GLO will be replaced with a private street. She discussed Mr. Jaske's concerns. She remarked they have been spending time since April or May negotiating through Mr. Jaske's Attorney to come up with a solution to the entry to the roadway that would have less impact on his home and the impact would be more toward the front and not the rear yard. She reported they have two signed letter agreements and the City facilitated this agreement between the

parties. She further reported they believe it is a fair agreement that solves a difficult issue for landowners. She provided an overview of where the trails would be located through this property. She noted her client has been more than accommodating of the public trails system.

Ms. Lagarde remarked she does not represent Mr. Jaske but felt she should let them know what his position was and what he bargained for. She further remarked she felt it would not be fair to Mr. Jaske to change the terms of the deal they all negotiated in good faith. She requested they approve this abandonment. She further remarked as they can see there is no where for the GLO easement to go part of it has been abandoned and the rest is being abandoned by the only one who would have a private right to enforce.

CHAIRMAN GULINO inquired since this application includes part of the abandonment on Mr. Jaske's property is he part of the application. Ms. Lagarde replied in the affirmative. Chairman Gulino stated he is just not present. Ms. Lagarde replied that is correct but he signed to authorize the application, which is required by the City.

COMMISSIONER NELSEN inquired what private right to the GLO easement is Ms. Lagarde speaking of. Ms. Lagarde replied her point is that if there is any private right in the GLO easement there is not one to assert it.

Commissioner Nelssen inquired why Ms. Lagarde's client was not exercising their right to use the 33-foot GLO patent easement on Mr. Jaske's property. Ms. Lagarde stated they did and that is how they got their plat approved. Commissioner Nelssen inquired so what is the problem in using that because don't they have the legal right to use it. Ms. Lagarde stated they absolutely did they could have developed it exactly as it was approved but they were asked by Mr. Jaske and the city to re-plat which was at a great expense to her client in order to have less impact on the lot. Commissioner Nelssen inquired just out of goodwill you did this. Ms. Lagarde replied they think it improved the subdivision as well as having less impact to Mr. Jaske's lot. They thought it was a better arrangement from a land use perspective to have a gated entry up here and both parties would benefit. Commissioner Nelssen stated it may be a better plan but the access rights to the patent easements go with the land not the property owner. Ms. Lagarde replied they understand that.

COMMISSIONER STEINBERG inquired what they would be doing with the re-configured entry off of Mountain View. Ms. Lagarde replied there would not be landscaping in the cul-de-sac but there is landscaping on either side of the wall. The walls would be low. Ron Burke, 16140 E. Jomax, provided information on the landscaping in the Cul-de-sac Island.

COMMISSIONER HEITEL stated it appears Mr. Burke has done an extraordinarily generous move in putting this project off a year or two to accommodate Mr. Jaske. In an effort to assist Mr. Jaske, he is not willing to dedicate a public trail. He further stated the Commission has a responsibility to the community at large to ensure the trail systems are propagated in a proper manner. He remarked he appreciates Ms. Lagarde's statement that it was not appropriate to go back on a deal that was structured between the parties. It seems strange because what purpose would the Commission have if they can just go to staff and structure their deals and the Commission is just suppose to

rubber stamp them. He reported he felt it was not in the public's interest to abandon the 10 feet of right-of-way that is needed for a trail system because a trail is there. He further reported he would hope his fellow commissioners would agree with him. Ms. Lagarde stated she would agree that it is in the Commission's discretion to do what is in the best interest of the community. On the other hand, she must represent the bargain they made with Mr. Jaske.

COMMISSIONER OSTERMAN inquired if the 10-foot trail easement on the west side of the Jaske property is part of the recognized trail system plan. Mr. Deeley replied in the affirmative.

COMMISSIONER NELSEN stated he does not understand why it is necessary to abandon the GLO easement on Mr. Jaske's property. Ms. Lagarde replied the reason it is necessary is because they can't put a private street within an GLO easement. Commissioner Nelsen expressed his concern that Mr. Jaske is not willing to dedicate a portion of the easement back for a trail. Chairman Gulino stated let's not confuse the fact that the trail and the GLO easement are in two different locations. Commissioner Nelsen stated they are in different locations because that is part of the agreement but the trail could be in the 33-foot easement. Ms. Lagarde stated it has been abandoned to the north of the Jaske property. It does not exist to the north of the Jaske property. Commissioner Nelsen stated the access rights go with the land so he is under the belief that the access rights to that GLO easement goes all the way up to the canal. The only people that have abandoned their rights are the City of Scottsdale. Ms. Lagarde replied that is his opinion and she does not share that opinion as to the existence of private access rights once the community has abandoned a GLO easement as public dedication. Commissioner Nelsen replied it is Federal Law but we are not here to discuss that they are here to discuss land use and there are still some unanswered questions.

MR. GRANT provided background information on this case. He stated this request came up because of a dispute between two property owners and the city got involved because it seemed to be a preferable solution to having two people feuding over a grading operation that was on one person's property. They determined it would be preferable to work out a solution that would be mutually satisfactory to both parties. Clearly, there are some questions about whether that was necessary from a legal standpoint to be done but from the standpoint of meeting two property owners' needs they have succeeded. The issue regarding the 10-foot on Mountain View whether that is a requisite part of the remainder of this request could be discussed and they could proceed without that being a portion of the application.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

LEON SPIRO, 7814 E. Oberlin Way, showed the document of the Federal Land Patent for his property. He inquired if the City Attorney had been asked for his opinion regarding what has been going on between these parties and staff. Mr. Spiro asked a series of questions regarding the reason for this request to abandon the GLO easement. He requested to see a copy of the roadway abandonment document. He inquired how the public would gain access to the trails. He also inquired why the patent easement was not shown on the site plan or plat of survey. Does the City plan on issuing building

permits to the applicant to develop structures on these patent easements. The Federal land patent that was issued by the Federal Government on each parcel sale in this area states this patent easement is subject to right-of-way not exceeding 33 feet in width for roadway and public utility purposes. He inquired if Mr. Pete Deeley has ever held the position of Engineering Service Director during the years he has worked for the City of Scottsdale. He stated he wants to know how people will get to the canal for recreation purposes. He concluded that they need to avoid this abandonment request.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. DEELEY provided the Commission and Mr. Spiro with a copy of the abandonment resolution for the 1999 case for the portion north of this.

COMMISSIONER NELSEN stated Mr. Spiro asked whether Mr. Deeley has held the position of Engineering Director for the City of Scottsdale and he felt Mr. Spiro deserves an answer. Chairman Gulino stated that is not relevant to this case.

VICE CHAIRMAN LOTZAR stated he is supportive of this case as presented. He further stated many times they are disappointed that the neighbors have not worked together and this is a situation where the neighbors have worked together. The developer has worked with the neighbor at some expense at least by delaying the project and carrying the debt if any on his project and the like. Given that he felt this is a good solution. He remarked he felt it was not appropriate for them to start to re-trade the trail issue. He further remarked that he felt some level of comfort given what was demonstrated as far as access on a trail. Although it is not the same trail that one would be interested in this case, but one that gets one to the canal, and provides access to whatever recreation results from the canal.

COMMISSIONER HEITEL commented he is troubled by the fact that Mr. Jaske is unwilling to abandon the 10 feet that is planned as part of the trails system. He stated he would like to recognize the applicant and staff for trying to work out this difficult neighborhood problem and coming up with a solution to that problem. He further stated he would be able to support that portion of this request but he would not be able to support the abandonment of the 10-foot right-of-way along Mountain View Road.

COMMISSIONER OSTERMAN stated he would support the abandonment. He further stated he is also troubled by the refusal of the property owner to cooperate with the city and abandon the 10-foot trail easement that was actually planned as part of the trails system. He noted he wants to put that aside and see that as a separate issue. He further noted he would still support this abandonment. It is appropriate and a good cooperative effort between the two property owners. He concluded he felt it works best for this situation.

COMMISSIONER STEINBERG stated he would agree with his colleagues that the parties have worked hard to mitigate the situation but he is also troubled by the abandonment of the trail. He further stated he hates to see trails disappear.

COMMISSIONER HENRY stated she would concur.

COMMISSIONER NELSEN stated he would also concur with the effort put forth by the two property owners to bring forward a compatible plan but he cannot support this abandonment because of the loss of access and loss of future opportunity. He further stated there was a comment made about his opinion about GLO patent easements and he would like to address that. He remarked It is not his opinion it is also the opinion of the County Board of Supervisors, Maricopa County Arizona. It is opinion of the legislative counsel for the congress of the United States and his personal attorney and he is a GLO patentee. He noted he has had personal experience where he has been effected after he went through the process of abandoning an easement in the City of Scottsdale and he still has to provide access to his neighbors.

CHAIRMAN GULINO stated he does not have an objection to the abandonment on 123rd Street. He further stated he does have a problem with the abandonment of the 10 feet and he cannot support it without some provision being made for the trail. It is in the General Plan. It is unfortunate that this was not part of the discussion with the property owner early on. He remarked he would propose to whoever makes the motion that they pass this case on with a recommendation for approval with the added stipulation that we obtain the trail easement along Mountain View.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 11-AB-2002 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL FOR THE ABANDONMENT OF A THE 20 FEET WIDE SECTION OF 123RD STREET PUBLIC RIGHT-OF-WAY REVOKING THE CITY'S INTEREST IN THE GLO PATENT ROADWAY EASEMENT ALONG 123RD AND CONVERTING THE 10 FOOT PUBLIC RIGHT-OF-WAY TO A 10 FOOT TRAIL EASEMENT. SECOND BY COMMISSIONER OSTERMAN.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO TWO (2) WITH COMMISSIONER NELSEN AND COMMISSIONER STEINBERG DISSENTING.

7-ZN-2002#2 (Hotel Valley Ho) request by City of Scottsdale, applicant, MSR Properties LLC, owner, for approval of amended development standards for building height, front yard parking setback and frontage open space for the Hotel Valley Ho (8.86 +/- acre parcel) located at 6850 E Main Street with Highway Commercial, Historic Property (C-3 HP) zoning.

MS. ABELE presented this case as per the project coordination packet. Staff recommends the Planning Commission approval of this proposed amended development standards in case 7-ZN-2002#2 for the Hotel Valley Ho, as authorized by Section 6.119. Historic Preservation Plan, as an appropriate tool to achieve the historic preservation and planning objectives for this property of exceptional significance, subject to the attached stipulations.

CHAIRMAN GULINO stated he was under the impression that at some point the DR Board would review the amended standards. Ms Abele reported the Planning Commission approves the amended standards and then it would go through the DR process. She further reported it would be a joint review process with the DR Board and Historic Preservation Commission.

Chairman Gulino inquired why the City is the applicant. Ms. Abele stated because the city is required to prepare the Historic Preservation Plan.

SCOTT LYON, Westroc Properties, stated they represent the owners of the hotel. He reported the team they have assembled specializes in the rehabilitation of hotels. He further reported they are very excited about rehabilitating the Hotel Valley Ho. He noted the property is unique because of its history, architecture and low-density nature in an urban environment. He further noted it is important to realize the challenges associated with rehabilitation. First and foremost rehabs are expensive it is much easier to develop from scratch. He remarked Westroc has taken a leap of faith by supporting the historic overlay with the corresponding restrictions on the property without a clear understanding at that time of the trade off. He further remarked they have processed their plans through both the City and State Historic Preservation Offices. He stated he would like to thank city staff for all of their support and assistance through this very complex process.

KEN ALLEN, Allen and Philip Architects, reviewed the plans for the hotel. He provided an overview of the three development standards. He discussed the rationale for requesting the three development standards. He reported the proposed amended standards for open space and parking setback will allow for the retention of the existing open space and parking locations to conform with and retain the prominent characteristics of the historic site plan.

Mr. Allen stated the proposed additional height in this central location is consistent with the original, documented 1956 architectural and structural engineering plans for four additional floors of guest rooms on top of the two-story lobby. This allows them a unique opportunity to finish the building.

Mr. Allen stated the amended development standards are needed to make this project economically viable.

VICE CHAIRMAN LOTZAR requested information on phase 2. Mr. Allen presented information on the two buildings that have been identified for phase 2. He noted they have not determined if they will be residential or some other kind of ownership. Vice Chairman Lotzar inquired if the building height would change. Mr. Allen replied they do not intend to change the building height.

COMMISSIONER STEINBERG inquired if the off site parking has HP designation. Mr. Allen replied the HP designation is only the north side. Commissioner Steinberg inquired if they have plans that the south side would have the historic character that resembles the original plans for the Valley Ho. Mr. Allen replied in the affirmative.

Commissioner Steinberg inquired if the city economic incentives have been earmarked for the project yet. Mr. Abele replied as part of the HP plan it addressed financial incentives. She provided information on the financial incentives that are available.

Commissioner Steinberg asked about the materials that would be used on the tower element. Mr. Allen provided an overview of the materials that would be used on the tower.

Commissioner Steinberg stated he loves the project and would support the request.

COMMISSIONER HEITEL stated he supports the project. He inquired if they were using any transitional parking to blend into the off site parking. Mr. Allen replied there is a pending DR case for the south portion so that issue will be addressed at that time.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

CATHY JOHNSON, 8655 E. Diamond, spoke in support of this request. She stated she is chair of the Historic Preservation Commission. She further stated last month the Historic Preservation Commission unanimously voted to approve amended development standards and they felt the proposed changes were necessary. She remarked this will improve the downtown area and help to keep the downtown area active.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER HENRY stated she toured the site today. She further stated that Mr. Lyon took her through the building and showed her a lot of the things that were spoken of tonight regarding what the Ramada had done how they put dry wall over the original wall. She remarked you hear of how master paintings are discovered because somebody used a beautiful master painting and painted over and underneath is this wonderful original and that is what is at the Valley Ho and the owners are going to take it back to the original. She further remarked she is very enthused about this project and felt it will be a wonderful addition to the downtown.

Commissioner Henry stated the problem they have with society today is that we are a tear down, throw away society and we have done that to so many of the wonderful buildings in Scottsdale. Here we have an owner who is taking something that was build and preserving it, improving it and bringing it back to how it was originally so she will support this project.

COMMISSIONER STEINBERG stated he would like to congratulate them on the quality team they have put together for this project.

COMMISSIONER STEINBERG MOVED TO FORWARD CASE 7-ZN-2002#2 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HENRY.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

(Commissioner Osterman left the meeting at 6:55 PM)

11-TA-2000#2 (Text Amendment/ESLO II) request by City of Scottsdale, applicant, to amend Ordinance 455 (Zoning Ordinance) Article III. Definitions.; Section 3.100., General.; Article VI. Supplementary Districts.; Section 6.1010. Environmentally Sensitive Lands Ordinance (ESLO).; Section 6.1011. Purpose.; Section 6.1020. Applicability of Regulations.; Section 6.1021. Applicable Districts and Conditions.; Section 6.1050. Intensity of Development.; Section 6.1060. Open Space Requirements.; Section 6.1070. Design Standards.; Section 6.1071. Design Guidelines.; Section 6.1083. Amended

Development Standards.; Section 6.1090. ESL Submittal Requirements.; Section 6.1091. All Applications.; Section 6.1110. Appeals. This covers approximately 134 square miles of desert and mountain areas of Scottsdale and is located north and east of the Central Arizona Project (CAP) Canal.

MR. WARD presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER NELSEN inquired why churches had exemptions for height in the R1 districts. Mr. Ward stated it is difficult to build an adequate church facility at the 26-foot height. Commissioner Nelsen stated in his neighborhood people are building single-family residences and calling them churches. He further stated his issue is that this would allow those facilities to go up to 45 feet right in the middle of a residential neighborhood. He remarked it seems there needs to be some distinction if they are going to have an exemption for churches as to what constitutes a church and where 45 feet would be appropriate.

MR. GRANT stated to clarify they are not suggesting that they are changing this to reflect the church provision they are not creating a new provision with this. They are saying this is how they have interpreted this based on the ordinance and this is how churches are being regulated. They are not suggesting they enact any further level of restriction with this ordinance this is a reflection of how the ordinance is being reflected today. Commissioner Nelsen stated his point is that there should be further level of distinction when they give exemptions to churches in the ESL when the private property owner does not get those exemptions so there is a level playing field. Mr. Grant stated churches would not be exempt from going through the DR process. Churches as opposed to single family residents have to go through DR so there is a specific criteria they have to meet that does not apply to residential structures. Commissioner Nelsen stated he was speaking about the height restrictions. He further stated in executive session when he was sitting on DR Board there was a discussion regarding what they can and can't do before it would be considered infringing on someone's religious rights. Ms. Boomsma reminded Commissioner Nelsen he cannot share what he learned in executive session in a public meeting. Commissioner Nelsen stated he is not sharing anything but just bringing into the discussion that it is unclear where the line is crossed. If they are going to have a environmentally sensitive lands ordinance it needs to address those issues specific to those lands and not grant any exemptions but have a vehicle by which exemptions could go through the process. This is a blanket statement for churches.

COMMISSIONER HENRY inquired if the this language would be incorporated into the Desert Foothills Overlay or would this take precedence. Mr. Stabley stated if the Desert Foothills Overlay were to be adopted by City Council that would take precedence over the ESLO in the areas that the rules were in conflict.

COMMISSIONER HEITEL inquired if what they were saying is that in the underlying zones that there is a specific designation that churches can build in the underlying zone at 30 feet so effectively taking ESLO and going back to the underlying zone. The 30 feet plus the 15 feet for 10 percent of the roof. Mr. Ward replied in the affirmative. Commissioner Heitel inquired if as it stands right now ESLO 2 regulates all buildings to

26 feet unless through the DR Board. Mr. Grant stated their interpretation that 26 feet is the height in R1 districts but because churches are regulated elsewhere in the ordinance, that direction takes precedence. They have included this as clarification of their interpretation.

Commissioner Heitel inquired if the ordinance could be legitimately interpreted differently than staff is currently interpreting it.

VICE CHAIRMAN LOTZAR stated they are asking a number of legal questions that are all legitimate but they are not going to get any meaningful result through that process so the Commission might want to consider passing this request with every other issue going forward and come back to this issue.

CHAIRMAN GULINO stated Commissioner Nelssen makes a good point regarding people may decide to turn their home into a church and go up to 45 feet as a way of getting around the ordinance. Mr. Grant reiterated the fact that single-family homes can be used as churches but they are subject to the DR approval and are subject to different criteria.

MS. BOOMSMA presented information on the issue of rights of the religious lands use noting that it is a very complicated. She stated part of the interest in having this clarification is to regularize the way the ordinance is seen by the public and to help staff in apply it in particular cases.

COMMISSIONER NELSEN stated he spent a lot of time working on ESLO and 24 feet was the height that was discussed for all buildings in ESLO and it was raised to 26 feet. Then this question came up about churches and he does not see any need to pull this issue out because it is a pretty simple issue and should be dealt with tonight.

Commissioner Nelssen stated another issue is that people may want to build a 45-foot tall tower because a wireless facility will pay them \$2,500 a month.

Commissioner Nelssen stated under Hazard-related Criteria to consider in the Hillside district it states they may consider natural hazards including erosion, subsidence, boulder rolling, rock falls, flooding, flood related mud slides. He inquired if there was any reason why it was only specific in the hillside area. Mr. Ward stated he believes it was an oversight or assumed it was covered. This has to do with areas the DRB can look under on hillside landforms.

Commissioner Nelssen stated drainage is a very important element of this ordinance as it relates to flooding and he would like to see it addressed throughout the entire ordinance because it gets to community health and safety issues. Mr. Grant stated when the ESLO went through a year ago there was a conscious effort to look at the purpose of the ordinance and tie that purpose back to health and safety and welfare issues. One of the things that were confusing between the ESL ordinance and the drainage ordinance was that they measured flow differently. One of the things they took care to do in the last iteration of the ordinance was to refer to the drainage ordinance in the ESL so there was a strong tie between drainage and the health, safety and welfare issues and make sure there was not confusion between the two ordinance. Commissioner Nelssen stated

those drainage issues need to be referenced in the purpose for ESLO. The purpose statement mentions drainage issues and health and safety but it does not emphasize how important that issue is to ESL areas and how important it is to defending the ordinance. One of the major premises of the ordinance should be to maintain the natural drainage and run off in ESL areas.

COMMISSIONER HENRY stated she would like to be clear about the church situation. She inquired if under this interpretation if churches that go into this area would be required to get a variance. Mr. Grant replied in the negative. Under this interpretation, they would be subject to the church criteria. Commissioner Henry noted that staff has been working under this interpretation so precedence has already been set. Mr. Grant replied precedence from the standpoint of their interpretation.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

HOWARD MEYERS, 6631 E. Horned Owl Trail, stated he does not have any problems with all of the changes except the church issue and it has been a problem for a long time. He further stated other communities regulate churches and force them to go through the permit process. There should be a way to regulate it so they don't have all of the problems Commissioner Nelssen referred to.

Mr. Meyers stated his other problem is that when this came through the last time they knew there were things that were not right but they passed it anyway because there were some good changes they wanted to get through. Now there are things that are not working in ESLO specifically around drainage. He further stated he felt the NAOS should be tied to the drainage.

Mr. Meyers showed pictures of washes where structures have been placed on washes blocking them. He stated ESLO is not making this situation better. He presented information on the drainage problems that are occurring in this area.

Mr. Meyers remarked churches should be regulated just the same as everyone else.

COMMISSIONER HEITEL inquired if the pictures Mr. Meyers showed were done under the current drainage ordinance. Mr. Meyers replied in the affirmative. Commissioner Heitel inquired how Mr. Meyers would fix the drainage issues. Mr. Meyers stated they should make a wash one of the major features. He further stated they should tie the drainage to the NAOS.

Mr. Meyers stated he felt the Commission should pass this ordinance minus the church issues.

COMMISSIONER HEITEL inquired if they could indicate some direction to go and pass this and request staff to tighten it up before it got to Council in a more definitive form. Mr. Grant stated he felt many of the issues that have been discussed tonight are important issues but if they do open this up in the community they would have a multitude of issues. Some people are in favor of perimeter walls some people opposed. Some people are in favor of channeling for drainage some people opposed. Some people in favor of additional NAOS requirements so people oppose. He remarked he

does not know if it is a clear-cut answer that they can fix these things and pass it on to Council. He remarked he felt it is a matter of should they take this back to the community for discussion.

COMMISSIONER NELSEN stated he does not think this needs to go back to the community because there has been a lot of public input. This gets down to what is the right thing to do. He further stated there is enough historic information regarding the 100-year flood. He commented the issues can be addressed regarding what is current policy under ESLO but they are not going to make the decision here but this discussion will continue at the Council level.

Commissioner Nelsen requested some help from staff in crafting a motion that would be brief and to the point that would communicate that they want this request to move on to City Council for approval but they want to suggest that there should not be exemptions for churches in terms of height and lighting. The difficult part would be to craft some language that would express their concerns regarding the drainage issues in ESLO.

VICE CHAIRMAN LOTZAR stated they should take into consideration the open meeting laws requirements of notice and posting and take a read of what he considers a fairly detailed agenda item.

MS. BOOMSMA stated that was her point that they do have some notice issues and public input issues. If the Commission would like to make a motion that made some simple changes about the churches they have discussed previously and wanted to include language in the purpose section that said the importance of drainage to the whole concept of ESLO that would be fine. It would be more difficult to try and come up with some specific language. She further stated she would recommend that the motion would limit it self to more general concepts that are covered in the existing notice and not more detailed changes dealing with tying NAOS to drainage requirements.

CHAIRMAN GULINO stated his recommendation would be that they speak to the issue before them regarding the changes to the proposed draft relative to concerns the Commission felt that there are issues relative to compatibility of ESLO Ordinance and the flood plain ordinance. He further stated he would direct staff to have the Flood Plain Administrator look at some of these issues and the issues could be discussed at a study session. He remarked that in his own involvement over the years he has always had a concern regarding the compatibility between those two ordinances. He further remarked he is not convinced the drainage problems are as severe as Mr. Meyers has indicated although they do have problems. He added he thought the most efficient and productive way to pursue this issue is to allow drainage staff to address in this detail.

COMMISSIONER HEITEL inquired if it would be over stepping their bound to insert some provision that directed that solid wall fencing could not occupy in minor or major washes because they believe washes are important characters of ESLO. Make a strong recommendation to Council that we request staff to look at this entire ESLO drainage issue. Chairman Gulino stated the Commission has the power to request staff to bring back further analysis.

VICE CHAIRMAN LOTZAR stated they had one person come and talk to them from this area so that tells him they should move this on rather than trying to make it perfect. He further stated they should move this forward minus the church issue.

COMMISSIONER NELSEN stated there have been more than one person come forward on the drainage issues. He further stated he has concern about getting this back to the city drainage engineers because drainage issues have been left as solve as you go.

COMMISSIONER NELSEN MOVED TO FORWARD CASE 11-TA-2000#2 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL WITH THE FOLLOWING CHANGE:

ON PAGE 17 THAT READS: "CHURCHES AND PLACES OF WORSHIP ARE SUBJECT TO THE CHURCH AND PLACES OF WORSHIP CRITERIA FOR BUILDING HEIGHTS ESTABLISHED BY THE UNDERLYING ZONING DISTRICT". THAT SHOULD BE CHANGED TO: ALL R1 ZONING SHOULD BE TREATED THE SAME. THERE SHOULD BE NO EXEMPTIONS FOR CHURCH BUILDING HEIGHTS.

COMMISSIONER STEINBERG inquired if Commissioner Nelsen would agree to a conditional use permit requirement for places of worship. Commissioner Nelsen stated he would support that but that is not on the agenda.

WITH THE STRONG RECOMMENDATION THAT CITY COUNCIL WOULD DIRECT STAFF TO REVISIT THIS RELATIVE TO DRAINAGE PROBLEMS REGARDING BLOCKING WASHES.

SECOND BY COMMISSION HEITEL.

COMMISSIONER HEITEL requested the Flood Plain Administrator address these issues at a study session.

MR. GRANT stated just for clarification on page 17, how did Commissioner Nelsen want that worded. Commissioner Nelsen stated churches and places of worship are subject to the same criteria as residential building standards or however they want to put that. Chairman Gulino stated there should be no special permit or special provision for height. Commissioner Nelsen stated he would add if they want to go through the variance process for a special purpose they feel strongly about that there is a venue they can appear before and gain approval.

VICE CHAIRMAN LOTZAR stated he would love to vote in favor of this case but he is afraid of the unintended consequences on the church issue. He further stated he is for everything but the church issue and that is why he wanted to put it aside.

CHAIRMAN GULINO stated he does not agree with the restrictions placed on the church but he will vote in favor to move this on to City Council with a note that they take another look at the church requirement and give special consideration to churches.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ONE (1) WITH VICE CHAIRMAN LOTZAR DISSENTING.

CHAIRMAN GULINO thanked Vice Chairman Lotzar for his outstanding service on the Planning Commission.

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 8:22 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

Planning Commission Report



MEETING DATE: MARCH 25, 2003

ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

REQUEST**Danny's Car Wash - Shea**

Request to amend existing use permits for an automated car wash and service station on a 2.5+/- acre parcel located at 7373 E Shea Boulevard with Central Business District (C-2) zoning.

16-UP-1997#2, 17-UP-1997#2

CONTINUANCE DATE

To be determined

**REASON FOR
CONTINUANCE**

These cases are being continued to allow the applicant additional time to work with the neighborhood.

STAFF CONTACT(S)

Bill Verschuren

Senior Planner

480-312-7734

E-mail: bverschuren@ScottsdaleAz.gov

APPROVED BY


Randy Grant
Chief Planning Officer

Planning Commission Report



MEETING DATE: MARCH 25, 2003

ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT	C.A.P Basin Park
REQUEST	Request to initiate a Municipal Use Master Site Plan for a City Park on 80+/- acres located at the northeast corner of Hayden and Bell Roads with Townhouse Residential, Planned Community Development (R-4 PCD) zoning. 2-UP-2003
APPLICANT AND STAFF CONTACT	Al Ward Senior Planner 480-312-7067 E-mail: award@ScottsdaleAZ.Gov
BACKGROUND	History/Context. The City of Scottsdale acquired this site in 1995. Portions of the site were subsequently developed as the C.A.P. storm water retention basin. In 1999, the City and the PGA Tour entered an agreement to provide parking on the site for the Phoenix Open. The Community Services Department and the Parks & Recreation Commission also sought opportunities to develop the site for a City Park. The site is located west of Perimeter Center, south of Stonebrook, and adjacent to the Montana Del Sol and Princess View, and Crown Point developments.
PROPOSAL	Goal/Purpose of Request. This initiation will allow staff to work on a Municipal Use Master Site Plan and receive additional public input for development of a City park on the site. Community Impact. The park proposal provides additional active and passive recreational facilities for this area including streets and infrastructure improvements. Substantial demand exists for additional recreational fields, especially lighted fields. The site has good access from area collector streets and can maintain its role as a storm water retention basin and provide parking areas for the Phoenix Open. Time Table. Staff's goals are to receive additional public input and return to the Planning Commission in April for consideration of the Park Plan and Municipal Use Master Plan.
OPTIONS AND STAFF RECOMMENDATION	Description of Option A: Planning Commission could choose to initiate this text amendment.

Description of Option B:

Planning Commission could decide against the initiation of this text amendment.

Recommended Approach:

Staff recommends the initiation.

RESPONSIBLE DEPT

Planning and Development Services Department
Current Planning Services

APPROVED BY

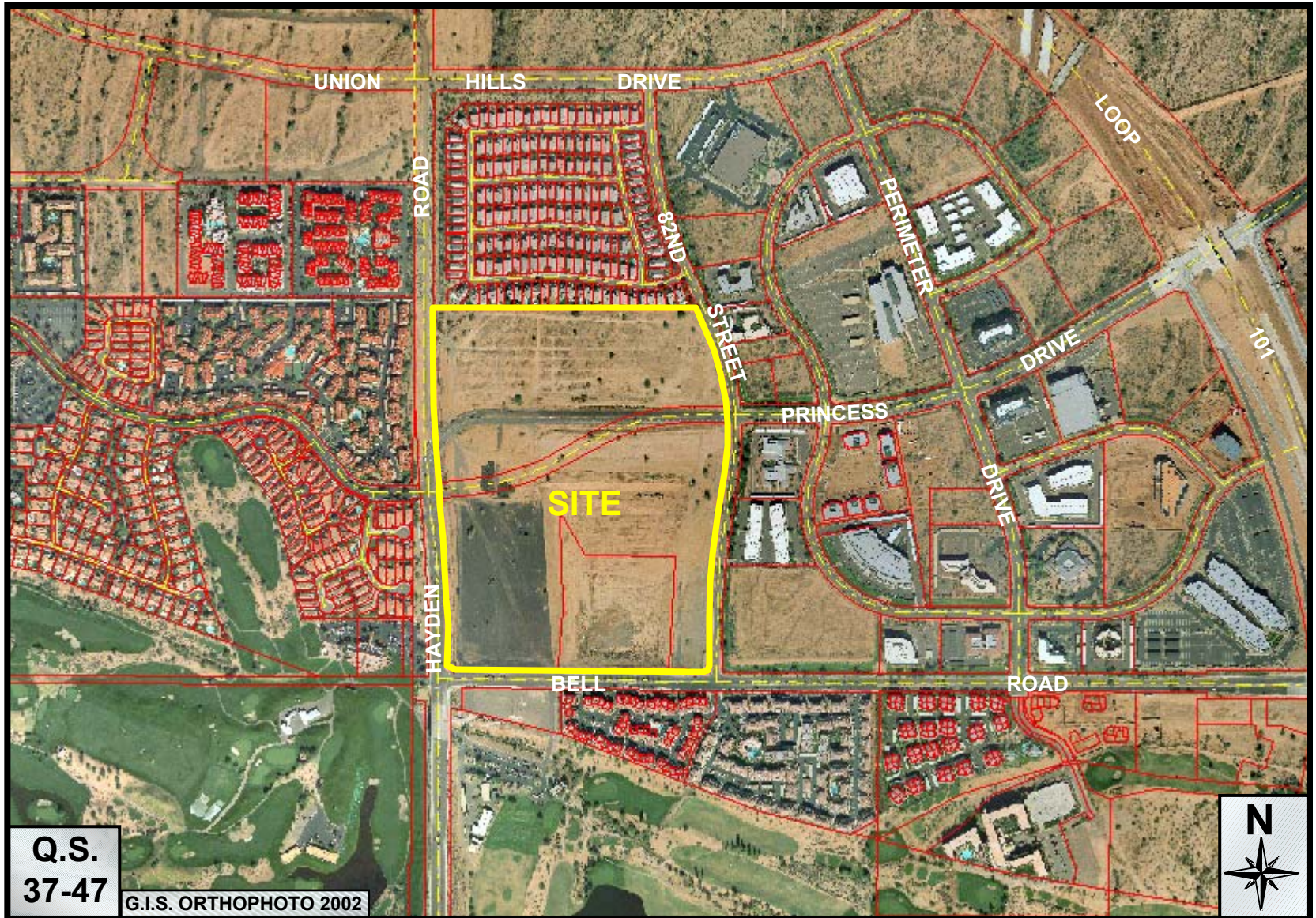
Al Ward
Senior Planner



Randy Grant
Chief Planning Officer

ATTACHMENTS

1. Aerial Map

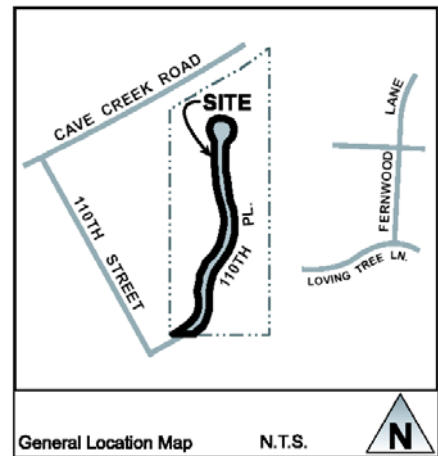


CAP Basin Park

2-UP-2003

ATTACHMENT #1

ITEM No. _____ GOAL: Coordinate Planning to Balance Infrastructure



complying with the R1-43 ESL zoning requirements. Staff has received this new dedication and it will be recorded if the abandonment is approved.

Traffic Impact.

The intersection where 110th Place joins 110th Street remains unaffected by this abandonment. The shifting of 100th Place four feet to the west has no significance to the local street system.

Community Impact.

The realignment of this roadway allows the property to develop in conformance with the existing R1-43 ESL.

IMPACT ANALYSIS

Departmental Responses.

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

Community Involvement.

Staff has received input from one citizen regarding this case. The property owner located at the intersection of 110th Street and 110th Way is in support of this abandonment.

**STAFF
RECOMMENDATION**

Recommended Approach:


Staff recommends approval, subject to the owner dedicating the new cul-de-sac right-of-way.

**RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)**

Planning and Development Services Department

Cheryl Sumners
Senior Planner
480-312-7834
E-mail: csumners@ScottsdaleAZ.gov

APPROVED BY



Cheryl Sumners
Senior Planner
Report Author



Jeff Fisher
Plan Review and Permit Services Director

ATTACHMENTS

1. Departmental Issues Checklist
- 1A. Property Owner's Narrative
2. Context Aerial
3. Detail Aerial
4. Pre Abandonment
5. Post Abandonment
6. Area Trails Plan

CASE 1-AB-2003

Department Issues Checklist

Transportation

☒ Support

The intersection where 110th Place joins 110th Street remains unaffected. The shifting of the cul-de-sac 4 feet to the west has no significance to the local street system.

Trails

☒ Support

The planned trail system in this area is along the north side of Cave Creek Road. Therefore, no public trails are required.

Public Utilities

☒ Support

Written consent has been granted to abandon the subject rights-of-way without the need for any reservations.

Emergency/Municipal Services

☒ Support

This request does not impact the ability to serve any adjacent properties.

Water/Sewer Services

☒ Support

This request does not impact the ability to serve any properties in the surrounding area.

Drainage

☒ Support

No drainage easements are required over the abandoned area.

January 30, 2003

MS. Cheryl Sumners, Staff Coordinator
Planning and Development Department
City of Scottsdale
Scottsdale, AZ

Re: Pre-App Case # 557-PA-2002

Dear Ms. Sumners:

Approximately two years ago, my wife and I executed a Deed of Right of Way Dedication to the City of Scottsdale for an access road and Cul-de-sac for our 7.5 acre parcel located at 110th Street and Cave Creek Road.

We subsequently graded and installed this road. At that time there were almost no neighbors. One man who had built a spec house across from our entrance on 110th Street came over a few times to see what we were doing. He expressed an interest in seeing us complete our work since he thought it would increase property values in the area. Unfortunately our job has not been completed and his house is still for sale.

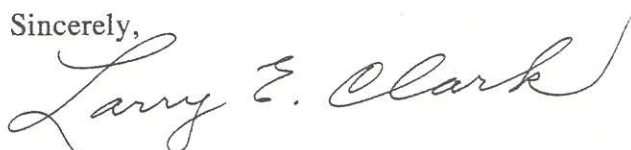
Since then, Alfred Zanhaw of Mill Creek, Washington has completed a residence on the corner of 110th Street and our entrance. He is anxious for us to complete our work since our road will provide him easy access to his four-car garage located at the rear of his property.

We have one neighbor who is adjacent to our parcel on the Cave Creek Road side (N.E. Corner). He is Dr. Samuel Shames from Ohio, I believe. He has the only house along Cave Creek Road for a mile or more who is forced to have his driveway accessible from Cave Creek Road. This is a very dangerous area to enter the highway. He has discussed our project with the idea of using our road to build a new driveway off our Cul-de-sac. We are trying to negotiate something with him subject to approval of our plan from the City of Scottsdale.

You have asked us why it is necessary to vacate the thoroughfare and it is all involved in an error our former engineer made when he surveyed the property. In my mind it is not an "abandonment", it is just the need to move the road 4 feet to the west to correct the error that he made in the size (total square footage) of the property.

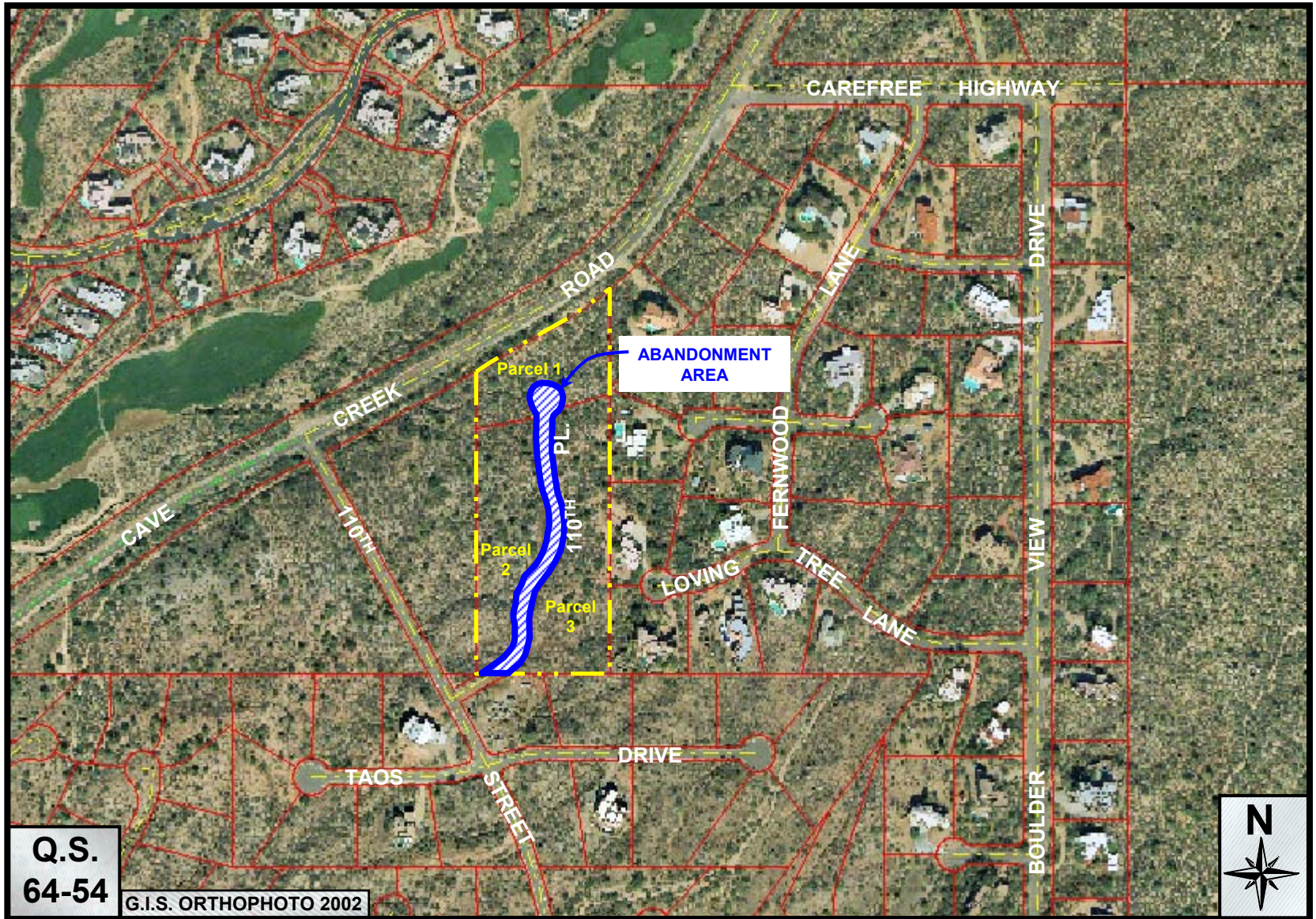
However, I understand why we now need to go through the exercise of vacating the original road plan and subsequently applying for the new legal description to be used in the final roadway.

Sincerely,



LARRY E. CLARK
P.O. BOX 797
CAREFREE, AZ 85377
TELEPHONE: 480-488-8431
FAX: 480-488-3917

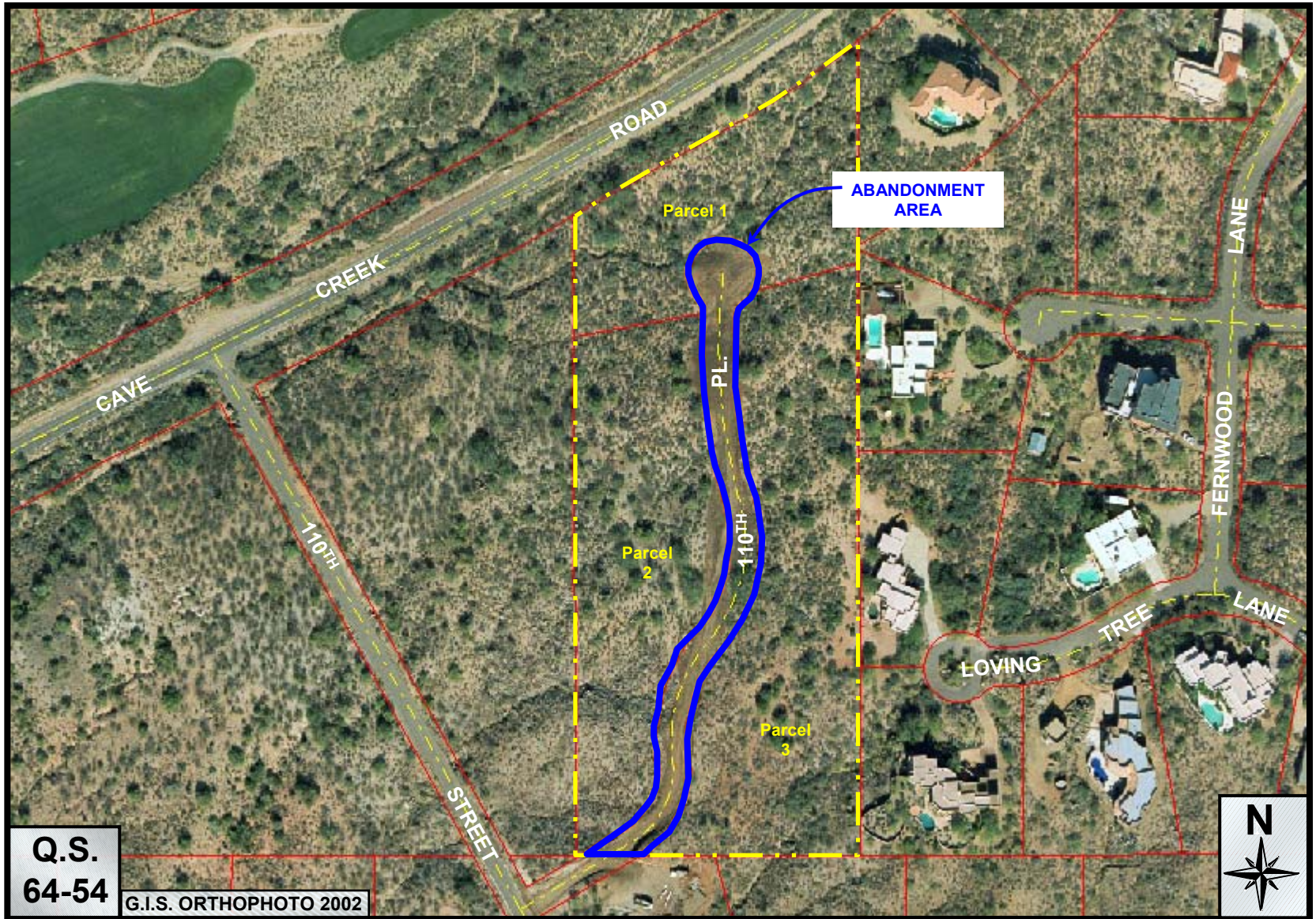
ATTACHMENT #1A



Context Aerial

1-AB-2003

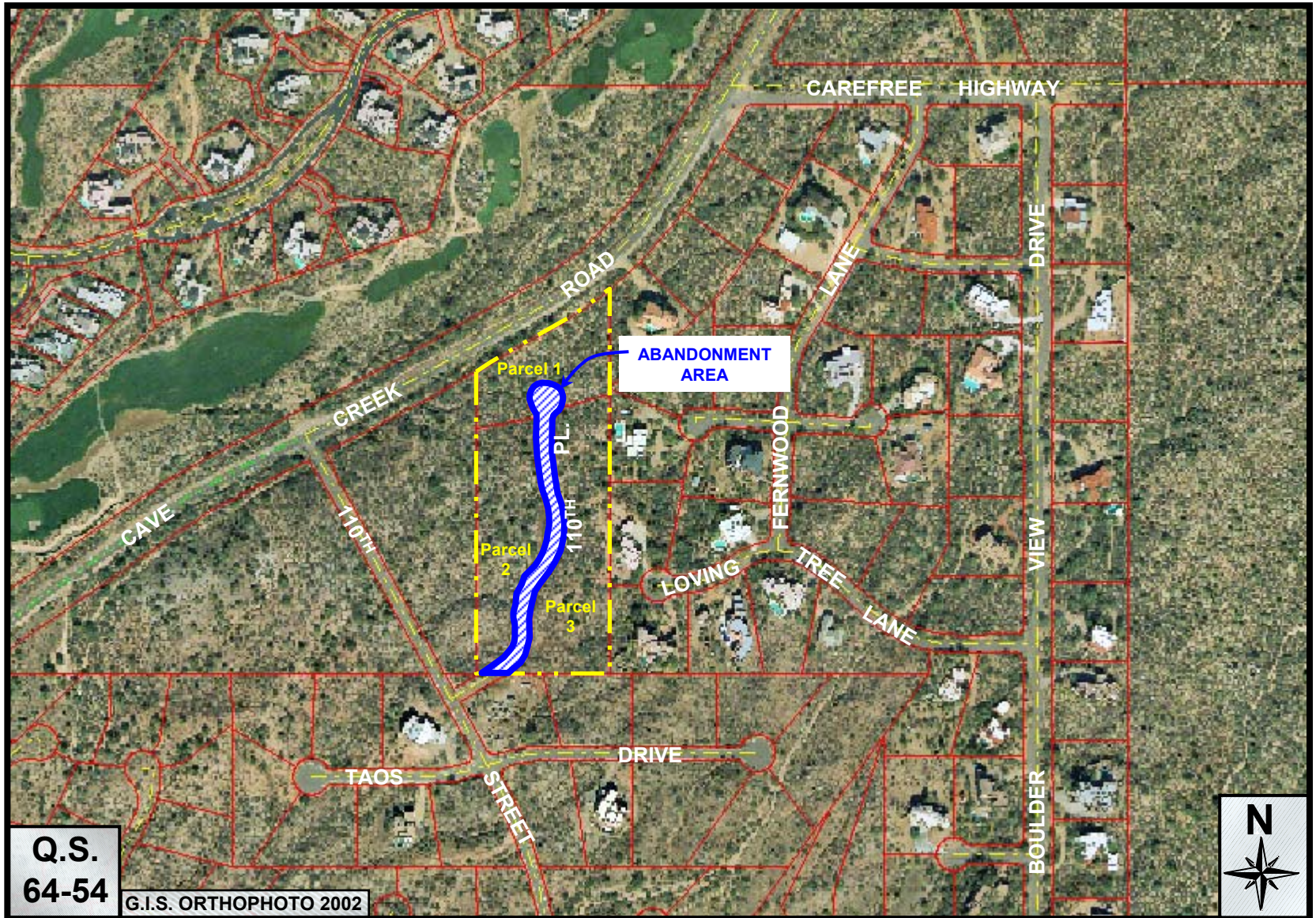
ATTACHMENT #2



Detail Aerial

1-AB-2003

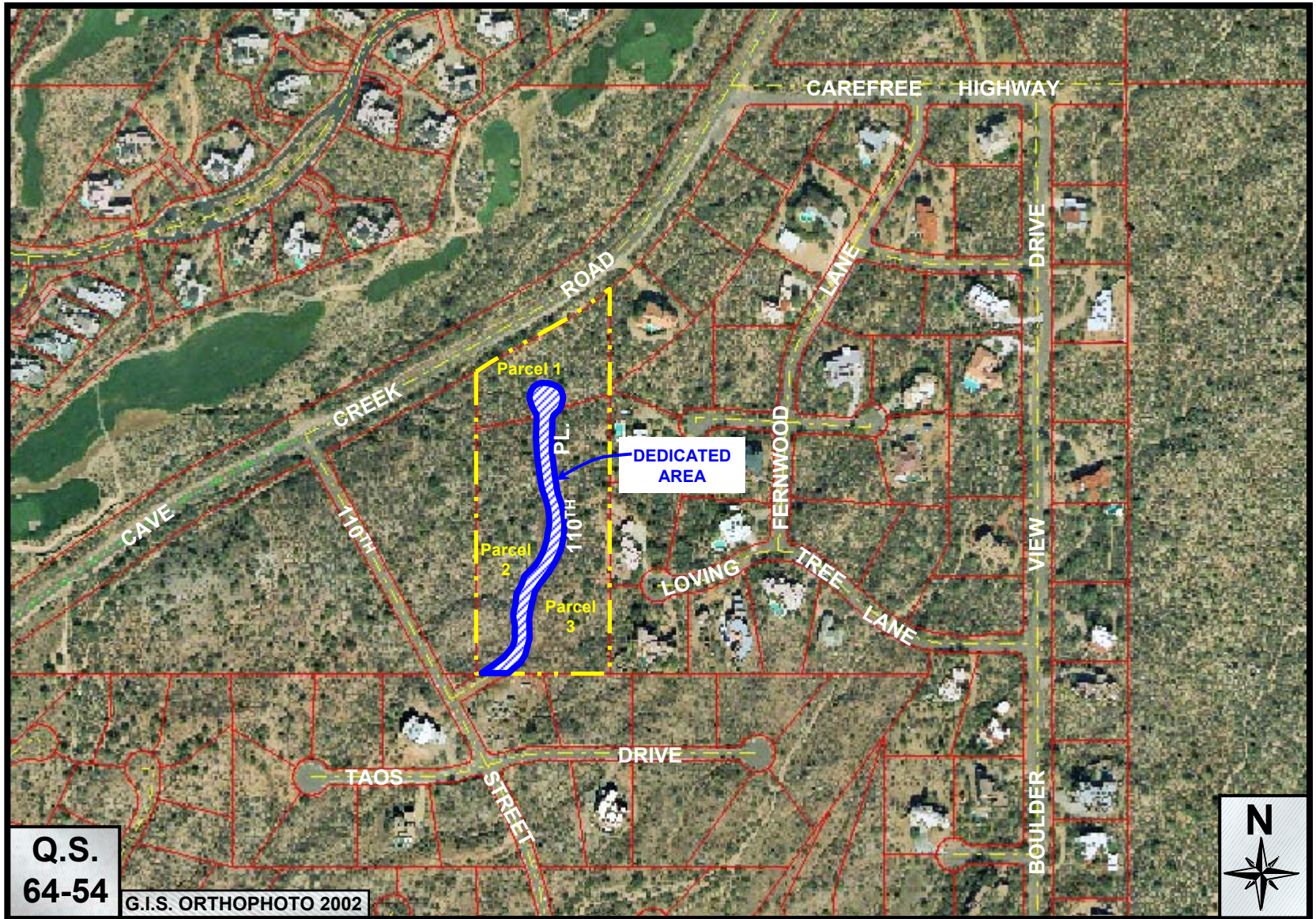
ATTACHMENT #3



Pre Abandonment

1-AB-2003

ATTACHMENT #4



Post Abandonment

1-AB-2003

Unpaved Trails near Lone Mountain & Cave Creek Rd.

